IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CWP No.5522 of 2006

Date of Decision: 13.11.2006

Sh.Anil Kumar .....Petitioner

Versus

State of Punjab and others .....Respondents

CORAM:- HON'BLE MR.JUSTICE J. S. KHEHAR
HON'BLE MR.JUSTICE S. D. ANAND

Present: Mr.Gurdip Singh, Advocate
for the petitioner.

Mr.Ashok Aggarwal, Addl.AG Punjab for respondents 1 to 3.

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J.S.KHEHAR, J. (Oral)

The petitioner was inducted into the service of the respondents as a Beldar/Gauge Reader in 1993. His services were allegedly terminated on 27.9.1995. The action of the respondents in terminating the petitioner's services came to be challenged by the petitioner under the provisions of the Industrial Disputes Act, 1947. The dispute raised by the petitioner challenging the order of his termination dated 27.9.1995 was referred for adjudication to the Presiding Officer, Labour Court, Patiala (hereinafter referred to as “the Labour Court”). The Labour Court, vide its order dated 24.7.2000, while accepting the prayer made by the petitioner ordered his re-instatement with continuity in service and full back wages. The award rendered by the Labour Court on 24.7.2000 was impugned by the

respondents by filing Civil Writ Petition No.13202 of 2004 in this Court. The aforestated Writ Petition was dismissed on 17.3.2005. The respondents then preferred a petition for Special Leave to Appeal bearing No.9995 of 2005 in the Supreme Court. The aforesaid petition for Special Leave to Appeal was dismissed on 11.11.2005.

On the culmination of the disputed questions raised by the petitioner under the Industrial Disputes Act, 1947, the petitioner was appointed as a Beldar on regular basis by an order dated 2.12.2005 (Annexure P4) in the pay scale of Rs.2520-4140 with an initial start of Rs.2620 with effect from 21.11.2005.

The order dated 2.12.2005 re-instating the petitioner as a regular Beldar w.e.f. 21.11.2005 was cancelled by a subsequent order dated 3.3.2006 whereby the petitioner was posted as a daily wage worker with effect from 21.11.2005.

It is apparent that the civil rights vested to the petitioner vide order dated 2.12.2005 (Annexure P4) have been altered to the detriment of the petitioner vide order dated 3.3.2006 (Annexure P6). It is this action of the respondents which is the subject matter of challenge through the instant Writ Petition. The primary contention of the learned counsel for the petitioner is that before passing the order dated 3.3.2006, whereby the petitioner was posted as daily wage worker, the respondents ought to have issued a notice to him informing the reasons for cancelling the earlier order dated 2.12.2005. It is also the contention of the learned counsel for the petitioner that the petitioner ought to have been afforded an opportunity to respond to the same and an opportunity of hearing before passing any adverse order was required to be given. Since neither the petitioner was

issued a notice as indicated above, nor afforded any opportunity to respond to the same, it is submitted that the impugned order dated 3.3.2006 must be deemed to have been passed in violation of rules of natural justice.

Learned counsel for the respondents has not been able to repudiate that at the time of passing the order dated 3.32006, the petitioner was not issued notice nor was afforded any opportunity of hearing.

In view of the above, we are satisfied that the order dated 3.3.2006 was passed without following the rules of natural justice. In view of above, we are satisfied that the order dated 3.3.2006 deserves to be set aside. The same is accordingly set aside.

Liberty is, however, granted to the respondents, if they be so advised, to take such further action on the matter in hand as may be considered appropriate after following the rules of natural justice and in accordance with law.

Disposed of accordingly.

(J. S. KHEHAR)
JUDGE

(S. D. ANAND)
JUDGE

November 13, 2006
SRM